## Cook County Commission on Human Rights Evaluation and Report



# Just Housing Amendment to the Human Rights Ordinance

Cook County Commission on Human Rights <a href="mailto:human.rights@cookcountyil.gov">human.rights@cookcountyil.gov</a>
312-603-1100
<a href="https://bit.ly/HRCommission">https://bit.ly/HRCommission</a>



## Cook County Commission on Human Rights Evaluation and Report Just Housing Amendment

#### I. <u>Background:</u>

#### a. Definitions

#### What is the **Just Housing Amendment**?

On April 25, 2019, the Cook County Board of Commissioners passed an amendment (Ord. No. 19-2394) to § 42-38 of the Cook County Human Rights Ordinance ("Ordinance") to

- 1. Prohibit housing discrimination based on an individual's covered criminal history; and
- 2. Require landlords considering an individual's covered criminal history to perform an **individualized assessment** of an otherwise qualified individual's criminal conviction history prior to denying them any application for housing.

Enforcement of the Just Housing Amendment ("JHA") went into effect on February 1, 2020. The JHA applies to real estate transactions, including the sale, rental, lease, and sublease renewal of residential properties.

#### What is **covered criminal history**?

Any information regarding an individual's arrest, charge, or citation for an offense; participation in a diversion or deferral of judgment program; record of an offense that has been sealed, expunged, or pardoned in accordance with applicable law; juvenile record; and conviction.

#### What is **individualized assessment**?

"Individualized Assessment," as referenced in § 42-38(a), means a process by which a person considers all factors relevant to an individual's conviction history from the previous three (3) years. An individualized assessment is not required for convictions that are more than three (3) years old.

Factors that may be considered in performing the Individualized Assessment include, but are not limited to:

- (1) The nature and severity of the criminal offense and how recently it occurred;
- (2) The nature of the sentencing;
- (3) The number of the applicant's criminal convictions;
- (4) The length of time that has passed since the applicant's most recent conviction;
- (5) The age of the individual at the time the criminal offense occurred;
- (6) Evidence of rehabilitation:
- (7) The individual's history as a tenant before and/or after the conviction;
- (8) Whether the criminal conviction(s) was related to or a product of the applicant's disability; and

(9) If the applicant is a person with a disability, whether any reasonable accommodation could be provided to ameliorate any purported demonstrable risk.

#### b. Procedures

#### **Notice:**

Before accepting an application fee, the housing provider must disclose the following:

- 1) The Tenant Selection Criteria, which describes how an applicant will be evaluated, including consideration of conviction history from the previous 3 years;
- 2) Applicant's right to provide evidence demonstrating inaccuracies in the conviction history or evidence of rehabilitation and other mitigating factors; and
- 3) A copy of Part 700 of the Commission's procedural rules or a link to the Commission's website, with the address, email address, and phone number of the Commission.

#### **Two-Step Evaluation Process:**

#### Step One: Prequalification

- During this step, a landlord may screen a tenant to determine whether the tenant satisfies all the application criteria such as income, rental history, credit score, pets, etc.
   Criminal background checks cannot be performed during Step One.
- When this first step is completed, the landlord must either 1) prequalify the applicant based on all criteria except those related to criminal history; or 2) deny the application based on failure to satisfy the prequalification criteria.

#### Step Two: Criminal Background Check & Individualized Assessment, if necessary

- Only after the landlord prequalifies an applicant may a landlord conduct a criminal background check.
- If the criminal background check reveals a criminal history, the landlord may only consider criminal conviction(s) within the last 3 years.

EXCEPT: Applicant is required to register in the **Sex Offender Registration Act** (or similar law in another jurisdiction) or a **current child sex offender residency** requirement;

OR

A criminal conviction within the last 3 years which shows a demonstrable risk to personal safety or property of others made following an individualized assessment.

Are landlords required to conduct criminal background checks?

No, the JHA does not require landlords to conduct criminal background checks.

Does an applicant who is denied housing have the right to dispute the information contained in the criminal background check?

Yes. The JHA includes Conviction Dispute Procedures as described below:

- Within five (5) business days of receiving a criminal background check, the landlord must deliver a copy to the applicant. A copy of the background check can be delivered in person, by certified mail, or by text or email.
- Once the applicant receives the results of the background check, the applicant has five (5) business days to provide evidence that disputes the accuracy or relevance of information related to the criminal background check.
- The landlord then has three (3) business days from receipt of the dispute information to accept or deny the application.

Is a landlord required to hold a unit off the market while an applicant disputes the background check?

No, a landlord does not have to hold a unit off the market.

How has the application process changed?

Landlords can no longer include a checkbox on housing applications that asks whether an applicant has a criminal background.

Before accepting an application fee, a landlord must provide the following information:

- Tenant Selection Criteria, which describes how an applicant will be evaluated.
- Notice of the applicant's right to dispute inaccuracies relevant to criminal history and to provide evidence of rehabilitation or other mitigating factors related to their criminal background.
- A copy of the JHA or a link to CCCHR's website.

#### II. <u>Enforcement Data</u>

#### a. <u>Data</u>

Since the inception of enforcement, CCCHR has received nineteen (19) complaints alleging violations of the JHA.

Date	Case Number	Nature of Complaint	Basis for Dismissal
8/28/2020	2020JHA001	Improper denial based on criminal conviction history	Settlement
7/20/2020	2020H003	Improper denial and housing discrimination based on race	Alleged Conduct occurred before JHA effective date/ No jurisdiction over racial discrimination claim
8/28/2020	2020JHA002	Discriminatory advertisement	Settlement
9/8/2020	2020JHA003	Improper denial based on criminal conviction history	Withdrawal
9/30/2020	2020JHA004	Improper denial based on criminal conviction history	Settlement
3/19/2021	2021JHA001	Discriminatory Advertisement	N/A Matter Ongoing
4/29/2021	2021JHA002	Discriminatory Advertisement	Withdrawal
4/29/2021	2021JHA003	Discriminatory Advertisement	Settlement
04/29/2021	2021JHA004	Discriminatory Advertisement	Settlement
4/29/2021	2021JHA005	Discriminatory Advertisement	Settlement
4/29/2021	2021JHA006	Discriminatory advertisement	Withdrawal/Duplicate Complaint
6/2/2021	2021JHA007	Improper denial based on criminal conviction history	Settlement
7/2/2021	2021JHA008	Improper denial based on criminal conviction history	Withdrawal
7/16/2021	2021JHA009	Improper denial based on criminal conviction	N/A Matter Ongoing

		history	
9/29/2021	2021JHA010	Improper denial based on criminal conviction history	N/A Matter Ongoing
9/15/2021	2021JHA011	Improper denial based on criminal conviction history	N/A Matter Ongoing
9/21/2021	2021JHA012	Improper denial based on criminal conviction history	N/A Matter Ongoing
10/29/2021	2021JHA013	Improper denial based on criminal conviction history	N/A Matter Ongoing
11/4/2021	2021JHA014	Improper denial based on criminal conviction history	N/A Matter Ongoing

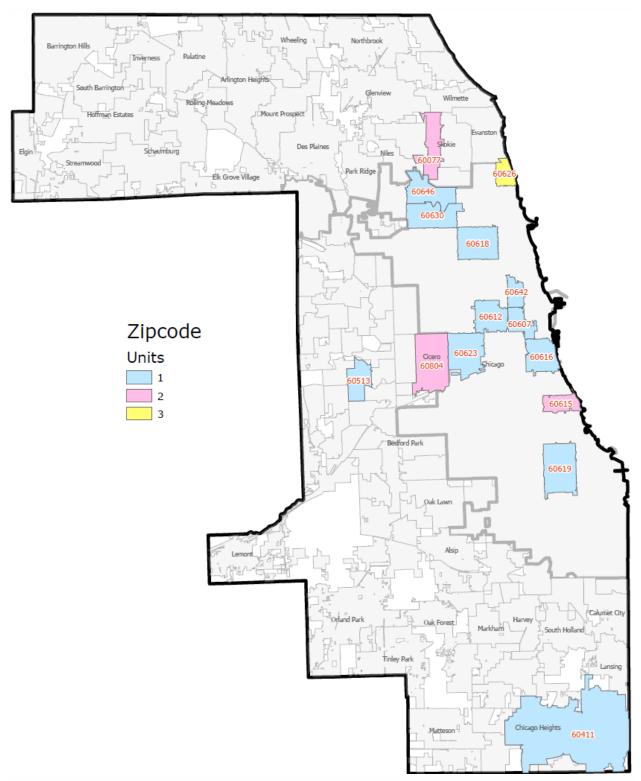
### b. **Complaint Summary**

- Seven (7) filed in the name of a housing community group.
- o Twelve (12) were for improper denials based upon criminal history.

Seven (7) were for improper advertisement.

JHA Residential ZIP Codes		
Number of Units i		
ZIP Code	ZIP Code	
60612	1	
60607	1	
60615	2	
60646	1	
60618	1	
60077	2	
60804	2	
60513	1	
60616	1	
60626	3	
60411	1	
60619	1	
60623	1	
60642	1	
60630	1	

*Note:* Total number of units is greater than the number of cases because one complaint alleged that two (2) residential buildings violated the JHA.



Map: Complaint Occurrence by ZIP Code

- CCCHR closed twelve (12) of the nineteen (19) JHA complaints filed.
  - Of the twelve (12) closed cases, seven (7) resulted in settlement, which included monetary awards (\$720); and at least three (3) housing providers who received training by housing community groups on compliance with JHA.
  - Twelve (12) of the closed cases were due to four (4) complaints voluntarily withdrawn by the complainant.
  - It was reported that one (1) Just Housing complaint investigation resulted in the complainant being placed in a housing unit.
- CCCHR has seven (7) open cases, one (1) of which is currently at administrative hearing.
- The complaints included no instance where an individualized assessment was conducted, or demonstrable risk found.

#### III. Just Housing Amendment Survey

Due to the limited number of Just Housing Amendment cases, CCCHR issued the Just Housing Amendment Survey (see Appendix A) in hopes of collecting more information regarding the amendment. This Survey was open to receive responses and distributed from 9/2/2021 to 10/24/21 and yielded 39 responses with the following respondent identifications:

Respondent identification	Number of responses
Individual	3
Community Group	15
Government Agency	4
Housing Provider	12
Other <sup>1</sup>	5

#### a. Summary of Response Results

Since the passage of the Just Housing Amendment, have you experienced or are you aware of or heard of any instances of discrimination based on criminal history (i.e., "covered criminal history") in Cook County?

Respondent	Response	Number of responses
Individual	Yes	0
	No	2
	Unsure	0
Community Group	Yes	12
	No	6
	Unsure	2
Government Agency	Yes	2
	No	2
	Unsure	0
Housing Provider	Yes	1
	No	11
	Unsure	1

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<sup>&</sup>lt;sup>1</sup> Respondents who identified as "Other" were members of community groups and were reclassed accordingly for subsequent questions.

Since the passage of the Just Housing Amendment, did you receive, or are you aware of an applicant who received, a positive individualized assessment, and did you or the applicant ultimately become admitted into the unit applied for?

Respondent	Response	Number of responses
Individual	Yes	0
	No	1
	Maybe, Unsure	1
Community Group	Yes	4
	No	13
	Maybe	3
Government Agency	Yes	3
	No	1
	Maybe	0
Housing Provider	Yes	8
	No	3
	Maybe	2

For the above question, please describe your knowledge of the individual's experience. (This was an optional question that received 24 responses.)

	Number of
Summary of responses	responses
Description of denial based on background checks or discrimination related to criminal history	9
Description of a positive series of procedures having developed from the JHA or positive rental	
experiences for returning residents	7
Description of some denial/discrimination and some	
positive experiences	1
Description of denial for another reason (sex offense	
conviction)	1
Too vague	2
N/A or 'cannot remember'	4

If you could modify the Just Housing Amendment, what changes would you make? (This was an optional question that received 28 responses. Also, the total number of responses to this question is greater than the number of respondents because some respondents provided multiple perspectives.)

Summary of responses	Number of responses
Eliminate or shorten the 3-year lookback window	5
'No changes'	5
Increased outreach efforts	4
Procedural changes (standardize process, third party mediation)	3
More accessible language	2
Too complicated/laborious	2
Hold units off the market during individualized assessment	2
Revised exclusions (fewer or different exclusions)	2
Get rid of it	1
Expand it throughout Illinois	1
Screening agency enforcement	1
N/A or 'unsure'	3

#### b. <u>Housing Provider Training Responses</u>

Additional responses to select survey questions were obtained during a housing provider training. Of the 42 training attendees, two (2) responded 'yes,' they were aware of an applicant who received a positive individualized assessment who was admitted into the unit that they applied for; six (6) responded 'maybe'; and 34 responded 'no,' they were not aware of an applicant who received a positive individualized assessment who was admitted into the unit that they applied for. It should be noted that it is likely training respondents came to the training with little or no understanding of the Just Housing Amendment's regulations.

#### c. Survey Conclusions

Bearing in mind the survey's limited scope, CCCHR developed the following conclusions regarding the enforcement of the JHA through this survey.

First, there was a consistent emphasis on the need for additional outreach to housing providers and housing seekers by CCCHR and local non-profit and advocacy organizations.

Second, several responses called for clarifications or plain language to be made to procedural rules and related outreach materials.

Third, a common question across JHA outreach has been promoting compliance among screening companies that are commonly used by housing providers. The root of this issue is that many third-party screening providers process a criminal background check at the same time as other portions of the tenant selection criteria (income, credit score, etc.). Relatedly, there have been reports that some screening companies refuse to limit the lookback period that is released to housing providers.

Overall, while limited in scope, the results of the Just Housing Amendment Survey have given CCCHR new information and perspectives, which will help guide its work in 2022.

#### IV. Outreach & Training

#### a. <u>Trainings</u>

During the period of survey collection, CCCHR hosted three trainings regarding the Just Housing Amendment, primarily to housing provider groups where we trained 92 individuals in live trainings. In addition, staff has attended four trainings about the Just Housing Amendment and related housing topics.

CCCHR currently has plans for two additional trainings in December, specifically regarding the Just Housing Amendment, and several trainings regarding rights and protections within the Human Rights Ordinance throughout 2021 and 2022.

#### b. **Coordination Meetings**

CCCHR hosted several internal meetings with the Housing Authority of Cook County, Cook County Court – Adult Probation, Office of Cook County Board President Toni Preckwinkle (Department of Communications), Cook County Justice Advisory Council, Cook County Sheriff's Community Resource Center, and Chicago Police Department – Office of Community Policing. The general purposes of these meetings were to answer questions regarding the Just Housing Amendment, distribute outreach materials, and plan future trainings.

Additionally, CCCHR hosted meetings that centered or included discussion of the Just Housing Amendment with thirteen community groups, including non-profit and advocacy organizations and housing providers.

#### c. Outreach Materials

CCCHR created and distributed a Community Outreach Toolkit regarding the Just Housing Amendment (see Appendix B), which included several outreach materials that are available on our website and several specifically requested materials. With the support of Northwest Center, Uptown People's Law Center, United Airlines, and Equal Justice Works, we recently published many Just Housing Amendment outreach materials in seven languages (Arabic, Spanish, Korean, Vietnamese, Mandarin, Tagalog, and Russian) on CCCHR's web pages.

CCCHR conducted specific outreach related to the Just Housing Amendment Evaluation & Reporting Survey, via email, phone, and social media.

#### V. Evaluation & Recommendation

Pursuant to Subsection 770 of the Procedural Rules, CCCHR must evaluate the rules implementing the JHA to determine whether Rules should be amended to effectuate the purpose of the JHA. The evaluation shall include an analysis of whether applicants who receive a positive individualized assessment from housing providers are ultimately admitted into the unit they applied for and data about the complaints made under the Just Housing Amendment.

**Purpose**: In most cities, people with any kind of criminal record, even just an arrest, can be unfairly denied housing. The JHA was passed to help these individuals access safe, stable, and affordable housing.

**Conclusions**: Enforcement data and results from the Just Housing Amendment Survey do not currently provide enough information to support substantive amendments to the JHA. However, CCCHR intends to make amendments for purposes of clarity and efficiency, as evidenced in the redlined draft amendments to the Rules. (See attached). CCCHR also intends to continue pursuing outreach and training opportunities related to the JHA.

#### **APPENDIX**

#### **Appendix A**: Just Housing Amendment Evaluation & Reporting Survey

This survey is conducted in compliance with Section 770.100 of the Just Housing Amendment to the Human Rights Ordinance. This requires the Commission on Human Rights to evaluate "the rules implementing the Just Housing Amendment to the Cook County Human Rights Ordinance to determine whether the rules should be amended to better effectuate the Amendment's purpose." To learn more about the Just Housing Amendment, visit: https://www.cookcountyil.gov/content/just-housing-amendment-human-rights-ordinance

The survey results are confidential and will only be used in aggregate to publicly share the results of the evaluation. The results of this survey are non-binding -- recorded responses will not necessarily result in policy changes.

Please contact the Cook County Commission on Human Rights (human.rights@cookcountyil.gov | 312-603-1100) with questions or concerns.

1. Are you responding to this survey as: an individual (describing your personal experience as a renter), a representative of a community group (on behalf of one or more individuals), a representative of a government agency, a housing provider, or another relevant party? *
☐ Individual
Community Group
Government Agency
Housing Provider
Other
2. Since the passage of the Just Housing Amendment, have you experienced any instances of discrimination based on your criminal history (i.e., "covered criminal history") in Cook County?  If you need to reference the definition of "covered criminal history," please see <a href="https://bit.ly/JHADefinitions">https://bit.ly/JHADefinitions</a> If yes and you would like to file a complaint, please contact Cook County Commission on Human Rights. *  Yes  No  Unsure

3. Since the passage of the Just Housing Amendment, are you aware of or have you heard of any instances of discrimination based on criminal history (i.e., "covered criminal history") in Cook County?
If you need to reference the definition of "covered criminal history," please see <a href="https://bit.ly/JHADefinitions">https://bit.ly/JHADefinitions</a> *
○ Yes
○ No
Unsure
4. Since the passage of the Just Housing Amendment, did you receive a positive individualized assessment from a housing provider and were admitted into the unit that you applied for?
A positive individualized assessment means the housing provider evaluated (i.e., asked questions about) your criminal history (within the past 3 years only) and considered whether that information was relevant to your current tenancy and, ultimately, concluded that your criminal history should not impact your ability to fulfill your responsibilities as a tenant.
If you need to reference the definition of "individualized assessment," please see <a href="https://bit.ly/JHADefinitions">https://bit.ly/JHADefinitions</a>
Yes, I received a positive individualized assessment and was admitted into the unit.
Yes, I received a positive individualized assessment, but was not admitted into the unit.
No, I have not received a positive individualized assessment.
Maybe, I might have received a positive individualized assessment but am unsure.
5. As thoroughly as you are able, please describe your experience of this process.
Enter your answer

6. Since the passage of the Just Housing Amendment, are you aware of an applicant we positive individualized assessment from a housing provider who was admitted into they applied for?	
A positive individualized assessment means the housing provider evaluated (i.e., aske about) the applicant's criminal history (within the past 3 years only) and considered information was relevant to current tenancy and, ultimately, concluded that the crim should not impact the applicant's ability to fulfill responsibilities as a tenant.	whether that
If you need to reference the definition of "individualized assessment," please see <a href="https://bit.ly/JHADefinitions">https://bit.ly/JHADefinitions</a>	
○ Yes	
○ No	
Maybe	
7. As thoroughly as you are able, please describe your knowledge of the individual's ex	cperience.
Enter your answer	
8. If you could modify the Just Housing Amendment, what changes would you make?	
Enter your answer	
<ol><li>If the Commission can contact you further about your responses, please include a co and email or phone number where you can be reached.</li></ol>	ontact name
Enter your answer	

#### **Just Housing Amendment to the Human Rights Ordinance**

Community Outreach Toolkit

Cook County Commission on Human Rights <a href="mailto:human.rights@cookcountyil.gov">human.rights@cookcountyil.gov</a> (312) 603-1100

#### 1. Background

- a. On April 25, 2019, the Cook County Board of Commissioners passed an amendment (Ord. No. <u>19-2394</u>) to § 42-38 of the Cook County Human Rights Ordinance ("Ordinance") to
  - i. Prohibit housing discrimination based on an individual's covered criminal history; and
  - ii. Require landlords to perform an individualized assessment of an otherwise qualified individual's criminal conviction history prior to denying them any application for housing.
- Cook County's Commission on Human Rights is responsible for accepting complaints and investigating violations of the Just Housing Amendment.

#### 2. Links

- a. Both links will lead to the survey:
  - i. <a href="https://bit.ly/JustHousingAmendmentSurvey">https://bit.ly/JustHousingAmendmentSurvey</a>
  - ii. https://forms.office.com/g/sXvYJXghGT
- b. Here is the link to the JHA page on Cook County's website:
  - i. <a href="https://www.cookcountyil.gov/content/just-housing-amendment-human-rights-ordinance">https://www.cookcountyil.gov/content/just-housing-amendment-human-rights-ordinance</a>
  - ii. https://bit.ly/JustHousingAmendment

#### 3. Handouts

- a. Included in this toolkit are 4 full-color handouts:
  - i. JHA Definitions
  - ii. JHA FAQ for Applicants
  - iii. JHA FAQ for Landlords
  - iv. JHA Screening Process
  - v. Note: these are in the process of being translated into 7 languages and the Commission will send follow-up communications when those are made available.

- b. We also included a one-page document for housing applicants that is in B&W / 2 color:
  - i. JHA One Page
- 4. Social Media Materials & Emails
  - a. Graphics:
    - We included 2 social media posts (Survey link & General JHA) in this toolkit that should be compatible with both Facebook and Twitter.
  - b. Sample posts:
    - i. Please complete our survey about the Just Housing Amendment.
       Access the survey by scanning the QR code or following this link: <a href="https://forms.office.com/g/sXvYJXghGT">https://forms.office.com/g/sXvYJXghGT</a>

#FairHousing #CookCounty #KnowYourRights

Cook County Commission on Human Rights

Please complete our survey about the Just Housing Amendment.

Access the survey by scanning the QR or following this link: <a href="https://forms.office.com/g/sxvyJXghGT">https://forms.office.com/g/sxvyJXghGT</a>

ii. Looking for more information on the Just Housing Amendment to the Cook County Human Rights Ordinance? You can find that here: <a href="https://bit.ly/JustHousingAmendment">https://bit.ly/JustHousingAmendment</a> #CookCounty #KnowYourRights #JustHousingAmendment



**Screening Process** 

### Step One: Prequalification

This step includes checking the applicant's credit history, employment, income, payment delinquencies, bankruptcies, etc.

If the applicant passes prequalification, then the landlord moves on to Step Two.

# Step Two: Criminal Background Check

This step screens ONLY the three (3) year criminal history of the applicant. Any convictions older than three (3) years MAY NOT be used to deny a housing application. If a conviction is found, the landlord must conduct an individualized assessment.

Based upon the individualized assessment, the landlord must notify the applicant of an approval or denial.

#### Step Three: Approval or Denial and Right to Dispute

If the applicant passes both checks, they will receive notification of approval. If they did not pass Step One or Step Two, the landlord may deny the application, and the applicant has the right to dispute the denial

#### c. Survey email:

Good afternoon,

I hope this email finds you well. Cook County Commission on Human Rights is writing to distribute this survey regarding the efficacy of the <u>Just Housing Amendment</u> to the Cook County Human Rights Ordinance and its related individualized assessments:

https://forms.office.com/g/sXvYJXghGT



This survey is conducted in compliance with Section 770.100 of the Just Housing Amendment, which requires the Commission on Human Rights to evaluate "the rules implementing the Just Housing Amendment to the Cook County Human Rights Ordinance to determine whether the rules should be amended to better effectuate the Amendment's purpose."

The results of this survey will be kept confidential and will only be used in aggregate to publicly

share the results of the evaluation. The results of this survey are non-binding, in that recorded responses will not necessarily result in policy changes.

Please distribute this survey to your network. The survey is provided in several languages (via the drop-down at the top of the survey); however, we welcome any feedback to improve our translations or accessibility. Please reply to <a href="mailto:julia.epplin-zapf@cookcountyil.gov">julia.epplin-zapf@cookcountyil.gov</a> with this feedback.

#### The survey will close on Sunday, October 24, 2021.

Please also find attached a social media graphic for your use. For other questions or concerns, please contact the Cook County Commission on Human Rights (<a href="https://human.rights@cookcountyil.gov">human.rights@cookcountyil.gov</a> | 312-603-1100).

Thank you!